



**KNIGHT
FIRST AMENDMENT
INSTITUTE**

at Columbia University

475 Riverside Drive, Suite 302
New York, NY 10115
(646) 745-8500
info@knightcolumbia.org

April 9, 2020

Via ECF and by Fax

The Honorable Naomi Reice Buchwald
United States District Court for the Southern
District of New York
Daniel Patrick Moynihan United States
Courthouse
500 Pearl Street, Room 2270
New York, NY 10007-1312

**Re: *Knight First Amendment Institute, et al. v. Trump, et al.*,
Case No. 1:17-cv-05205 (NRB)**

Dear Judge Buchwald,

Plaintiffs write pursuant to Federal Rule of Civil Procedure 6(b), Local Rule 7.1(d), and Section 1(E) of this Court's individual practices, to request that the Court set the deadline for Plaintiffs to file any motion for attorneys' fees and costs in this case to thirty days after all appeals have been exhausted. Defendants consent to this request.

On May 23, 2018, the Court issued a Memorandum and Order holding that Defendants violated the First Amendment by blocking the Individual Plaintiffs from the @realDonaldTrump Twitter account based on the views they expressed. ECF No. 72. On July 9, 2019, the Second Circuit affirmed this Court's judgment. 928 F.3d 226 (2d Cir. 2019). On March 23, 2020, the Second Circuit denied Defendants' petition for rehearing en banc. No. 18-1691-CV, 2020 WL 1328845 (2d Cir. Mar. 23, 2020) (mandate issued Apr. 1, 2020).

Plaintiffs' Complaint, ECF No. 1, requests an award of attorneys' fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, which authorizes an award of "costs" and "reasonable fees and expenses of attorneys" to the "prevailing party in any civil action brought by or against the United States or any agency or any official of the United States acting in his or her official capacity in any court having jurisdiction of such action." Plaintiffs are also entitled to recover their taxable costs in this action if they prevail. 28 U.S.C. § 1920; Local Rule 54.1. The EAJA provides that a prevailing

party has thirty days after all appeals have been exhausted to file a motion for fees and expenses. *See* §§ 2412(d)(1)(B), (d)(2)(G).

The parties agree that the EAJA's thirty-day statutory deadline for seeking fees supersedes the fourteen-day deadline in Federal Rule of Civil Procedure 54(d)(2). *See* Fed. R. Civ. P. 54(d)(2) (fourteen-day deadline for filing motion for fees "unless a statute or court order provides otherwise"). Plaintiffs are filing this letter to notify the Court of that understanding, and respectfully request that the Court set the deadline for Plaintiffs to file any motion for attorneys' fees and costs in this case to thirty days after all appeals have been exhausted.

Respectfully,

/s/ Jameel Jaffer

Jessica Ring Amunson
Tassity S. Johnson
Tali R. Leinwand
Jenner & Block LLP
1099 New York Avenue, NW
Suite 900
Washington, DC 20001
(202) 639-6000
jamunson@jenner.com

Jameel Jaffer (JJ-4653)
Katie Fallow (KF-2535)
Carrie DeCell (CD-0731)
Alex Abdo (AA-0527)
Knight First Amendment Institute at
Columbia University
475 Riverside Drive, Suite 302
New York, NY 10115
(646) 745-8500
jameel.jaffer@knightcolumbia.org